IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO: 11997 of 2003

Between:

M/s. The Standard Chemcial Company (P) Limited,
5/11B, SIDCO Industrial Estate (NP), Ambattur, Chennai - 600 098, rep. by
its Regional Sales Executive Mr.M.R.Ramanan.

..... PETITIONER

AND

The Commissioner & Director of Agriculture, O/o. Commissioner & Director
of Agriculture, Opp: Fathemaidan, A.P., Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction directing the Respondent not to interfere with the Petitioner's business by approving and communicating the Principal Certificate issued by the Petitioner to its dealers as per the Petitioner's application dated 26.3.2003 under the Insecticides Act, 1968.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondent: GP FOR COOPERATION

The Court made the following:

HONOURABEL SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 11997 of 2003

ORDER:

This is a writ petition, seeking a Writ of Mandamus, directing the respondent-Commissioner & Director of Agriculture, Hyderabad, not to interfere with the petitioner's business by approving and communicating the Principal Certificate issued by the petitioner-company to its dealers as per the petitioner's application, dated 26-03-2003 under the Insecticides Act, 1968 (for brevity 'the Act, 1968').

2. It is stated that the petitioner-Company is engaged in the manufacture and sale of Sulphur Dust (Sulphur 85% DP) and it is a licensed manufacturer, having obtained the licence under Section 13 of the Act, 1968 from the Deputy Director of Agriculture (Plant Protection), Office of the Director of Agriculture, Chennai, under licence bearing No.37/73, dated 22-12-1973, which has been renewed from time to time and the same is valid up to 31-12-2004. The petitioner-company also obtained a Certificate of Registration under Section 9 of the Act, 1968, in respect of Sulphur 85% DP. The petitioner-company issued 'principal certificate' to its agents as required under the Insecticides Rules, 1971 (for brevity 'Rules, 1971') for marketing its products. It is further stated that the 'principal certificate' issued by the petitioner-company to its dealers who intends to sell the insecticides to their customers, is different and distinct from the licence to be issued by the respondent to the said dealers. For any violation of the provisions of the Act, 1968 and Rules, 1971 made there under, it is observed that once the licences were issued, the respondent authorities cannot interfere with the licences given by the principal-manufacturer as well as the dealers to the agents authorizing them to sell the insecticides.

3. The issue raised in this writ petition is squarely covered by the Judgemnt of this Court in ***TROPICAL AGRO SYSTEMS INDIA LTD., REP. BY ITS DY. REGIONAL MANAGER, VIJAYAWADA v. COMMISSIONER & DIRECTOR OF AGRICULTURE, GOVT. OF A.P., HYDERABAD*** which was upheld by a Division Bench of this Court, in W.A.No.2009 of 1998, dated 06-08-1999, reported in ***COMMISSIONER & DIRECTOR OF AGRICULTURE, GOVT. OF A.P., HYDERABAD*** **v.** ***TROPICAL AGRO SYSTEMS INDIA LTD., REP. BY ITS DY. REGIONAL MANAGER, VIJAYAWADA***.

4. The similar contention raised by the learned counsel for the respondent is

that in view of the provisions of
Rule 10 (4-A) (iii) of the Rules, 1971, the licencing authority could verify the genuineness or otherwise of the Certificate issued by the principal to the dealer which is required to be sent to the licensing authority of the State where a dealer intends to sell the products and the licencing authority is empowered to suspend, revoke or cancel the 'principal certificate'.

5. But, the said contention was negatived in the aforesaid judgment of a Division Bench of this Court, wherein, it was held that as per the Rules, 1971, the suspension, revocation or cancellation of the certificate is an act of the principal and in so suspending, revoking or cancelling, the principal is required to intimate to the jurisdictional licensing officer. This provision does not in any way, either expressly or by any necessary implication, authorize or empower the licensing officer to cancel a certificate issued by the principal authorizing the dealer.

6. Accordingly, the writ petition is disposed of in terms of the judgment of a Division Bench of this Court in W.A.No.2009 of 1988. No costs.

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April 5, 2005

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To

1. The Commissioner & Director of Agriculture, O/o. Commissioner &

Director of Agriculture, Opp: Fathemaidan, A.P., Hyderabad.

2. Two C.Cs. to G.P. for Cooperation, High Court of A.P.,

High Court Buildings, Hyderabad (OUT)

3. Two C.D. Copies.

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